

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**BOARD OF ZONING ADJUSTMENT**



Application No. 13759, of W. Edward Thompson, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the use provisions (Sub-section 3104.3) to use the subject premises as a law office in an R-4 District at the premises 1718 North Capitol Street, N.W., (Square 3102, Lot 68).

HEARING DATES: June 23 and September 8, 1982  
DECISION DATES: September 8, 1982 (Bench Decision)

FINDINGS OF FACT:

1. The application was first scheduled for the public hearing of June 23, 1982. Neither counsel for the applicant nor the applicant were available on that date because of a prior court appearance. The application was continued to the public hearing of September 8, 1982.

2. The subject property is located on the west side of North Capitol Street between R Street and Randolph Place, N.W. and is known as premises 1718 North Capitol Street, N.W. It is in an R-4 District.

3. The site is rectangular in shape with approximately seventeen feet of frontage on North Capitol Street. It is improved with a two and one-half story brick row dwelling which is occupied as a law office. The site is generally flat.

4. Immediately to the north of the subject site is a row dwelling and a funeral parlor in the R-4 District. To the east across the street at each corner are some row dwellings with commercial uses on the ground floor in the C-2-A District. South of the site, there are two row dwellings and a church in the R-4 District. To the west, there are row dwellings in the R-4 District.

5. The subject site is in an extensive area of R-4 zoning. There are also strip commercial areas of C-2 zoning extending along Florida Avenue approximately two blocks south of the subject square and along North Capitol Street from directly across from the site south beyond the intersection of North Capitol Street and Florida Avenue.

6. The applicant proposes to use the subject property as a law office building. Such use is first permitted as a matter-of-right in the C-1 District.

7. The applicant is and has been a practicing attorney in the District of Columbia since 1974. He purchased the subject property in 1979 with the intention of occupying it as his residence. He began taking phone calls and seeing clients on the subject premises and eventually the structure became the location of his law practice.

8. Approximately \$15,000 to \$20,000 was spent on renovation of the subject property.

9. The subject property has been furnished with law office equipment and is now operated by the applicant and another attorney.

10. The applicant testified that to move his law practice from the subject premises would impose an economic hardship on him.

11. The applicant established the law practice on the premises without any thought to its legality or illegality. He testified that he was aware of the existence of surrounding commercial uses. On January 18, 1982, he was advised by letter from the Office of the Zoning Administrator that he was operating a law office without a certificate of occupancy and was advised to file an application with the BZA.

12. The applicant further testified that, in his mind, his practice would service the neighborhood and that, because of his low-key operation, such a law practice would have no deleterious affect on the neighborhood because of noise, traffic or other objectionable conditions.

13. The applicant testified that the subject property could be used as a residence but that he would not attempt to rent the subject premises as a residence. If he had to move his law practice, he would move back into the premises as his residence. The Board finds that the premises has been and can continue to be used for residential purposes as permitted in the R-4 District.

14. The Office of Planning and Development, by report dated June 18, 1982, recommended that the application be denied since the basis of the request is for economic considerations. The OPD further reported that the property had been used in the past for residential purposes and the OPD did not find any extraordinary and exceptional conditions related to the physical features of the property that would prevent its reasonable use as specified for the R-4 District in which the property is located. The OPD was of the opinion that the increase in commercial activities in the R-4 District would have an adverse impact on the remaining residential units in the R-4 District due to increased vehicular and pedestrian traffic. The OPD was further of the view that increased encroachment of

commercial use in this R-4 District would have a negative impact on the intent, purpose and integrity of the zone plan for the City. The Board concurs with the views and recommendation of the OPD.

15. Advisory Neighborhood Commission 5C, by report dated September 7, 1982, voted to oppose the application for the following reasons:

- a. The applicant fails to meet the requirements of Paragraph 8207.11 of the Zoning Regulations. The property is not unique and the subject structure is basically identical to the surrounding homes.
- b. Any hardship in this case is self-imposed.
- c. To grant the variance would be to reward the applicant for his illegal use of the property.
- d. The intent and purpose of the Zoning Regulations would be ignored if the Board was to allow this illegal use to continue. An R-4 District is designed to stabilize the number of remaining single family homes. Granting this use variance would have precisely the opposite effect.
- e. The subject property is located on a very busy street. To grant this variance would only compound traffic problems in this area. Traffic congestion and noise are severe problems in this neighborhood. This applicant has not, to any great extent, cooperated with the community in resolving this problem.

The Board concurs with the recommendation of the ANC and with the reasoning of the ANC with regard to items "a", "b" and "d." The applicant has failed to establish that there is a uniqueness in the site which would support the granting of a use variance. This alone is dispositive of the application. The Board need not address the asserted issues of illegality, noise and traffic.

16. No one appeared at the public hearing in favor of the application.

#### CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact and the evidence of record, the Board concludes that the applicant is seeking a use variance, the granting of which requires a showing through substantial evidence of a hardship upon the owner of the site arising out of some unique or exceptional condition in the property so that the property cannot reasonably be used for purposes for which it is zoned. The Board concludes that the applicant does not have a unique or

exceptional condition of the property which imposes a hardship upon him. The applicant testified that he would suffer an economic hardship if he is not allowed to continue his law practice on the subject premises. His reasons are personal and do not constitute a basis to grant a use variance. The history of the property evidences that the subject property was and can be used for purposes for which it is zoned.

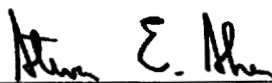
The Board further concludes that the requested relief cannot be granted without substantial detriment to the public good. The proposed law office would have an adverse impact on the remaining residential dwellings in the surrounding R-4 District. Further encroachment of commercial use in the R-4 District would substantially impair the intent, purpose and integrity of the zone plan.

The Board is further of the opinion that it has accorded to Advisory Neighborhood Commission 5C the "great weight" to which it is entitled. Accordingly, it is ORDERED that the application is hereby DENIED.

VOTE: 4-0 (Walter B. Lewis, Connie Fortune, Douglas J. Patton and Charles R. Norris to deny; William F. McIntosh not present, not voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:

  
STEVEN E. SHER  
Executive Director

FINAL DATE OF ORDER: DEC 30 1983

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

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